

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE J.B.KOSHY**

**&**

**THE HONOURABLE MRS. JUSTICE K.HEMA**

**MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929**

**Mat.Appeal.No. 104 of 2006()**

**OP.545/2004 of FAMILY COURT, THIRUVALLA**

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**APPELLANTS/RESPONDENTS**

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**1. MANOMOHAN.K., S/O.C.KUTTY,  
AGED 30 YEARS, KANGARAPPADI, IDIKULANJI,  
VADAKODE, KANGARAPPADIKARA, THRIKKAKARA NORTH  
VILLAGE, KANAYANNOOR TALUK.**

**2. C.KUTTY, HINDU, AGED 65 YEARS,  
KANGARAPPADY IDIKULANJI, VADAKODE,  
KANGARAPPADIKARA, THRIKKARA NORTH VILLAGE,  
KANAYANNOOR TALUK.**

**BY ADV. SRI.D.KISHORE**

**RESPONDENTS:**

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**SUSHAMA.V.S., D/O.U.K.SAHADEVAN,  
AGED 25 YEARS, MADHY BHAVAN, THOTTAPPADI,  
KUNNAMTHANAM MURI, KUNNAMTHANAM VILLAGE,  
MALLAPPALLY TALUK.**

**BY ADV. SRI.K.M.JAMALUDHEEN  
SMT.LATHA PRABHAKARAN**

**THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD  
ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**MAT.APPEAL.No 104/2006**

**ORDER ON IA. NO.S 809/06 & 413/2007 IN MAT.Appeal.No 104/07**

**DISMISSED**

**10.09.2007**

**SD/- J.B.KOSHY, JUDGE**

**SD/- K.HEMA, JUDGE**

**/TRUE COPY/**

**P.S. TO JUDGE**

**tss**

**J.B. KOSHY & K. HEMA, JJ.**

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**MAT. APPEAL No.104 of 2006**  
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**Dated this the 10th day of September, 2007**

**Judgment**

**Koshy, J.**

First appellant herein married the respondent on 15.7.2002. Respondent approached the Family Court by filing O.P. (HMA) No.45 of 2003 stating that husband was suffering from mental disorder and he knew it earlier to the marriage and the marriage took place without disclosing that and the marriage was not consummated. The court accepted the above contention and marriage was declared null and void. Thereafter, respondent filed another petition which resulted in the impugned order. After considering the matter in detail, the Family Court ordered Rupees One lakh as compensation. The only question pressed before us was that the Family Court has no jurisdiction to order compensation as marriage was declared as null and void. Thereafter, no proceedings can lie before the Family Court. We are of the opinion that the above contention is untenable. The matter was

covered by a Division Bench decision in Leby Issac v. Leena M. Ninan (2005 (3) KLT 665). Paragraph 14 of the above decision reads as follows:

"14. The expression 'in circumstances arising out of marital relationship' thus means not only those occurrences which transpired during marital life, but, those also include such circumstances which led to the marriage, which developed thereafter, which took place during marital life, which resulted in breaking down of marriage and also those which 'closely' followed as a consequence of all these. If the intention of legislature was to take in only those occurrences which take place during a 'marital relationship', there was no necessity to use the word 'circumstances' in explanation (d) to section 7 (1) of the Act. The same purpose could have been achieved if explanation (d) is worded without the term 'circumstances' also. So, the inclusion of word 'circumstances' in the relevant provision is quite significant and it must have been done to include all such circumstances surrounding, preceding and closely following a marital relationship, i.e., the principal event of marriage and the eventualities surrounding the same."

The order in question is directly related to the marriage and consequences of its annulment and the Family Court is the appropriate court which has jurisdiction to adjudicate the issue.

In the above circumstances, we dismiss the appeal.

**J.B.KOSHY**  
**JUDGE**

**K. HEMA**  
**JUDGE**

vaa

J.B. KOSHY AND  
K.HEMA,JJ.

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Mat.Appeal NO.104 of 2006  
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**Judgment**

Dated:10th September, 2007